

REMARKS

In the above identified Office Action the Examiner has rejected Claim 1 as anticipated by or in the alternative is obvious over the European patent publication to Coz et al. Applicant notes that the Cox et al. reference is by the same Applicant/Assignee as subject application and has one inventor in common with the subject application.

The Examiner has stated that while Cox et al. is silent about the average diameter of the channels, that since he teaches the same subject matter of the same structure and composition by the same method and for the same use, the workable average diameter of the channels is either anticipated or obviously provided.

The Examiner has stated that Cox et al. is silent about the average diameter of the channels. The Examiner should also note that Cox et al. does not mention or suggest the diameter of the enveloping circle of the members, another essential requirement of Claim 1. Thus, Claim 1 requires that the members have an average diameter as defined by the diameter of the enveloping circle and the plane of the material of less than 1.5mm and the channels have an average diameter of less than 0.75mm. Neither of these parameters have been taught or suggested by the prior art, therefore, such parameters cannot be obvious from the prior art.

Further, Applicant notes that such parameters cannot be deemed to have been arrived at through routine experimentation since the parameters have not been first recognized as a result effective variable. It is Applicant's accomplishment to first notice the problem and then to realize a solution. Cox et al. recognizes neither of these and, thus, cannot be utilized in rejection of Claim 1 based on obviousness or anticipation.

Further, the Examiner seems to believe that if one followed the procedures of Cox et al., the resulting product would arrive at a workable average diameter of the channels as taught by Applicant. However, since there is no suggestion by Cox et al. to restrict the size of the members average diameter or the channel's average diameter, it

would necessarily obtain a product having an average diameter different than that claimed herein. Since there is no suggestion by Cox et al. that such parameters are result effective variables, as set forth above, one skilled in the art would not be looking to arrive at the parameters now set forth in Claim 1. Therefore, Applicant believes that the subject invention as defined in Claim 1 is patentable and not taught or suggested by the art of record.


Applicant hereby requests reconsideration and reexamination thereof.

No further fee or petition is believed to be necessary. However, should any further fee be needed, please charge our Deposit Account No. 23-0920, and deem this paper to be the required petition.

With the above amendments and remarks, this application is considered ready for allowance and applicant earnestly solicits an early notice of same. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he/she is respectfully requested to call the undersigned at the below listed number.

US 10/529,436

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gerald T. Shekleton". The signature is fluid and cursive, with the first name "Gerald" and last name "Shekleton" clearly distinguishable.

Dated:

Gerald T Shekleton

Reg. No. 27,466

Husch Blackwell Sanders Welsh & Katz

120 South Riverside Plaza, 22nd Floor

Chicago, Illinois 60606

Phone: (312) 655-1511

Fax: (312) 655-1501